

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

RUSSELL L. MABRY,

Plaintiff,

v.

Civil Action No. **3:21CV62**

UNKNOWN,

Defendant.

MEMORANDUM OPINION

Plaintiff, a Virginia inmate proceeding *pro se*, submitted a letter complaining about his ongoing detention and the conditions of his detention. (ECF No. 1.) It is not clear from Plaintiff's submissions whether he wishes to pursue a civil rights action challenging the conditions of his confinement under 42 U.S.C. § 1983 or a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Given the content of this document, the Court determined that it was appropriate to give Plaintiff the opportunity to pursue this action as a petition for a writ of habeas corpus under 28 U.S.C. § 2254. *See Rivenbark v. Virginia*, 305 F. App'x 144, 145 (4th Cir. 2008). Accordingly, by Memorandum Order entered on March 4, 2021, the Court directed the Clerk to send both a 42 U.S.C. § 1983 form and a 28 U.S.C. § 2254 form to Plaintiff. The Court directed Plaintiff that he must complete the forms for either a 28 U.S.C. § 2254 petition or a 42 U.S.C. § 1983 action and return the same to the Court within fifteen (15) days of the date of entry hereof. The Court further explained that the failure to complete an appropriate form and return the same to the Court within fifteen (15) days of the date of entry hereof would result in the dismissal of the action. *See Fed. R. Civ. P. 41(b).*

More than fifteen (15) days have elapsed and Plaintiff has not completed and returned a form or otherwise responded to the March 4, 2021 Memorandum Order. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall accompany this Memorandum Opinion

Date: 15 April 2021
Richmond, Virginia

Is/ JAG
John A. Gibney, Jr.
United States District Judge